

# House Daily Reader

**Thursday, January 27, 2000**

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# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

228D0394

## HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1071** - 1/26/00

Introduced by: Representatives Fitzgerald, Clark, Hennies, Koehn, and Kooistra and Senators  
Daugaard, Kleven, and Shoener

1 FOR AN ACT ENTITLED, An Act to provide for the disposition of certain abandoned, lost,  
2 or confiscated bicycles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. If any abandoned, lost, or confiscated bicycle is under the control or care of or has  
5 been placed in storage by any local government agency or law enforcement agency and if more  
6 than ninety days have passed since the bicycle first came in the possession of the local  
7 government agency or law enforcement agency, the bicycle may be donated to a charitable  
8 organization, veterans organization, or benevolent organization that is nonprofit and recognized  
9 as tax-exempt under section 501(c)(3), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the  
10 United States Internal Revenue Code of 1986 as amended to January 1, 2000, for distribution  
11 to the public based on need in a manner to be determined by the charitable, veterans, or  
12 benevolent organization.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to Local Government. H.J. 54

3    1/23/00 Scheduled for Committee hearing on this date.

4    1/25/00 Scheduled for Committee hearing on this date.

5    1/25/00 Local Government Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 229

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

197D0491

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1081** - 1/26/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Brown (Richard), Brooks, Chicoine, Cutler, Davis, Derby, Diedtrich (Elmer), Fiegen, Fischer-Clemens, Hennies, Jaspers, McCoy, Michels, Peterson, and Sutton (Daniel) and Senators Shoener, Daugaard, Hutmacher, Kloucek, Madden, Olson, Paisley, and Rounds

1 FOR AN ACT ENTITLED, An Act to allow equitable relief if certain public contracts are found  
2 void.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 5-18-19 be amended to read as follows:

5 5-18-19. It ~~shall be~~ is unlawful for any public corporation or its officers to enter into any  
6 contract in violation of the terms of this chapter or chapter 5-21, and any such contract entered  
7 into ~~shall be~~ is null and void and of no force and effect. Nothing in this section prohibits the court  
8 from applying the doctrine of equitable estoppel. If the contractor affirmatively establishes  
9 grounds to apply the doctrine of equitable estoppel, the court may award the contractor some  
10 or all of the actual costs incurred in performing the contract.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to State Affairs. H.J. 56

3    1/24/00 Scheduled for Committee hearing on this date.

4    1/24/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 1. H.J. 218

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

382D0339

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1092** - 1/26/00

Introduced by: Representatives Konold, Brown (Jarvis), Crisp, Diedtrich (Elmer), Pummel, Smidt, and Wetz and Senators Madden and Brosz

1 FOR AN ACT ENTITLED, An Act to provide for the regulation of home inspectors.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Client," any person who engages, or seeks to engage, the services of a home  
5 inspector for the purpose of obtaining inspection of and written report upon the  
6 condition of a residential building;

7 (2) "Commission," the South Dakota Real Estate Commission;

8 (3) "Home inspector," any person registered or licensed as a home inspector pursuant to  
9 the provisions of this Act;

10 (4) "Home inspection," an inspection and written evaluation of all the following  
11 components of a residential building: heating system, cooling system, plumbing  
12 system, electrical system, structural components, foundation, roof, masonry structure,  
13 and exterior and interior components;

14 (5) "Residential building," a structure consisting of not more than four family dwelling  
15 units.

16 Section 2. The commission shall issue and renew certificates to licensed and registered home

1 inspectors pursuant to the provisions of this Act.

2 Section 3. No person may provide, or hold oneself out as able to provide, a home inspection  
3 for compensation unless registered or licensed in accordance with the provisions of this Act. A  
4 violation of this section is a Class 1 misdemeanor.

5 Section 4. An applicant for a license as a home inspector shall file a written application  
6 provided by the commission showing that the applicant meets the following requirements:

- 7 (1) Good moral character;
- 8 (2) Successful completion of high school or high school equivalency;
- 9 (3) Employment as a registered home inspector for no less than one year and performance  
10 of not less than one hundred home inspections for compensation; and
- 11 (4) Successful completion of a licensing examination approved by the commission.

12 Section 5. An applicant for registration as a home inspector shall file a written application  
13 provided by the commission showing that the applicant meets the following requirements:

- 14 (1) Good moral character;
- 15 (2) Successful completion of high school or high school equivalency;
- 16 (3) Successful completion of an approved course of study of not less than forty hours, as  
17 prescribed by the commission in rules promulgated pursuant to chapter 1-26; and
- 18 (4) Successful completion of a registration examination approved by the commission.

19 Section 6. The commission shall promulgate rules pursuant to chapter 1-26 for licensed and  
20 registered home inspectors in the following areas:

- 21 (1) Standards and requirements for prelicense and continuing education, including  
22 qualifications of instructors, procedures for granting a certificate of accreditation,  
23 notification of a material change in an approved course offering, suspension,  
24 revocation, and denial of course approval, certification of attendance, preregistration,  
25 and hours required to renew a license or registration;

- (2) A code of ethics and standards of practice;
- (3) Fees for applications, examinations, registration, licensure, and renewals, not to exceed four hundred dollars for application and two hundred dollars for renewal;
- (4) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;
- (5) Procedures for disciplinary proceedings, including requirements for filing a complaint, dismissal of a complaint, informal and formal resolution of a complaint, formal complaint and answer requirements, final action and review, disqualification of a commission member from a hearing, and authorization for per diem and mileage; and
- (6) Procedures for declaratory rulings, petitions for rules, and contested cases.

Section 7. The provisions of this Act do not apply to any of the following persons:

- (1) Any person who is employed as a code enforcement official by the state or a political subdivision of the state when acting within the scope of that governmental employment;
- (2) Any person regulated by the state as an architect, professional engineer, electrical contractor, or plumber, who is acting within the scope of practice of the person's profession or occupation;
- (3) Any real estate broker or salesperson licensed by the state when acting within the scope of that person's license;
- (4) Any real estate appraiser certified, licensed, or registered by the state when acting within the scope of that person's license;
- (5) Any person engaged as an insurance adjuster, when acting within the scope of that person's profession; or



1       (6) Any manufactured home dealer who is licensed by the state, when acting within the  
2           scope of that person's license.

3       Section 8. Upon payment to the commission of a fee and the submission of a written  
4       application provided by the commission, the commission may issue a home inspector license to  
5       any person who holds a valid license issued by another state or possession of the United States  
6       or the District of Columbia which has standards substantially equivalent to those of this state,  
7       as determined by the commission.

8       Section 9. During the first three hundred sixty-five days after the effective date of this Act,  
9       the commission shall issue to any person, upon application, a home inspector license, if the  
10      applicant meets the requirements of subdivisions (1), (2), and (4) of section 4 of this Act and has  
11      been engaged in the practice of home inspections for compensation for not less than one year  
12      prior to the effective date of this Act and has performed not less than one hundred home  
13      inspections for compensation.

14      Section 10. Any license or registration expires on December thirty-first of the year following  
15      issuance and may be renewed biennially. An application for renewal shall be filed with the  
16      commission no later than November thirtieth of the year of expiration. Any renewal application  
17      filed after that date is subject to a late renewal penalty of twenty dollars per month or fraction  
18      thereof. However, no late renewal may be filed after June thirtieth of the year following the  
19      expiration of the registration or license.

20      Section 11. The commission may suspend, revoke, reprimand, or assess a monetary penalty  
21      not to exceed two thousand five hundred dollars, or may provide for a combination or  
22      revocation, suspension, reprimand, or monetary penalty, for any violation of this Act or any  
23      administrative rule adopted to administer this Act.

24      Section 12. All fees and any fines imposed by the commission shall be paid to the fund of the  
25      commission.

1       Section 13. The commission may refuse to grant or may suspend or revoke a home inspector  
2       license or registration upon proof, to the satisfaction of the commission, that the holder has:

3       (1)   Disclosed any information concerning the results of the home inspection without the  
4           approval of a client or the client's representative;

5       (2)   Accepted compensation from more than one interested party for the same service  
6           without the written consent of all interested parties;

7       (3)   Accepted commissions or allowances, directly or indirectly, from other parties dealing  
8           with the holder's client in connection with work for which the holder is responsible;  
9           or

10      (4)   Failed to disclose promptly to a client information about any business interest of the  
11       holder which may affect the client in connection with the home inspection.

12      Section 14. This Act is effective on January 1, 2001.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to Commerce. H.J. 58

3    1/20/00 Scheduled for Committee hearing on this date.

4    1/25/00 Scheduled for Committee hearing on this date.

5    1/25/00 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 221

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

606D0131

## HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HB1096** - 1/26/00

Introduced by: Representatives Wetz, Apa, Brown (Richard), Diedrich (Larry), Duenwald, Earley, Eccarius, Hunt, Jaspers, Konold, Koskan, Lintz, McNenny, Napoli, Pummel, Sutton (Duane), and Young and Senators Madden, Brown (Arnold), Drake, Dunn (Jim), Everist, Kleven, and Vitter

1 FOR AN ACT ENTITLED, An Act to assign liability for certain attempts to prevent or delay  
2 the control or eradication of weeds and pests.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. If any person or entity takes legal action in any form to prevent or delay any  
5 federal, state, or local government agency or any person from attempting to control or eradicate  
6 an infestation of weeds or pests, as defined by state law, on any public land, including federal  
7 land for which a state or local government agency has applied for permission to attempt to  
8 control or eradicate such an infestation, and if the infestation subsequently spreads to adjacent  
9 private land, the person or entity that brought such legal action is liable to the owner of the  
10 private land for damages resulting from the infestation.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to committee assignment waived. H.J. 59

3    1/18/00 Referred to Agriculture and Natural Resources. H.J. 120

4    1/25/00 Scheduled for Committee hearing on this date.

5    1/25/00 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 13, NAYS 0.

6    H.J. 220

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

464D0485

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1106** - 1/26/00

Introduced by: Representatives Peterson, Heineman, Smidt, and Wetz and Senators Staggers and Brosz

1 FOR AN ACT ENTITLED, An Act to provide for an early presidential primary.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 12-2-1 be amended to read as follows:

4 12-2-1. The primary election provided for in chapter 12-6, except the presidential primary  
5 election, shall be held at the regular polling place in every voting precinct throughout the state  
6 on the first Tuesday in June of every even-numbered year. In a year when a President of the  
7 United States is to be elected, the primary for selection of delegates and alternates to the national  
8 convention shall be held on the next Tuesday following the day on which the State of New  
9 Hampshire elects to conduct a presidential primary election.

10 Section 2. That § 12-5-1 be amended to read as follows:

11 12-5-1. A new political party may be organized and participate in the primary election, except  
12 the presidential primary election, by filing with the secretary of state not later than the first  
13 Tuesday of April at five o'clock p.m. prior to the date of the primary election, a written  
14 declaration signed by at least two and one-half percent of the voters of the state as shown by the  
15 total vote cast for Governor at the last preceding gubernatorial election, which declaration shall  
16 contain:

1 (1) The name of the proposed party; and

2 (2) A brief statement of the principles thereof;

3 whereupon the party shall, under the party name chosen, have all the rights of a political  
4 party whose ticket was on the ballot at the preceding general election. A new political party may  
5 participate in a presidential primary election by complying with the requirements of this section  
6 no later than the last Tuesday of November at five p.m. prior to the date of the presidential  
7 primary election.

8 Section 3. That § 12-5-2 be amended to read as follows:

9 12-5-2. At each primary election, other than a presidential primary election, the members of  
10 the respective political parties shall elect the precinct committeemen and precinct  
11 committeewomen of their political party, and pursuant to their constitution or bylaws shall elect  
12 or appoint, or both elect and appoint, the number of delegates and alternates set by the  
13 constitution or bylaws from each county for each political party to the state convention of the  
14 party. In the years when a President of the United States is to be elected, the political parties  
15 shall elect delegates and alternates to the national convention of each political party in  
16 accordance with the provisions of §§ 12-5-3.6 to 12-5-3.15, inclusive. If delegates and alternates  
17 are not elected at large from the entire state the constitution or bylaws shall set forth the area  
18 boundaries for representation coincident with some geographical division of the state otherwise  
19 authorized or provided by law.

20 Section 4. That § 12-5-3.8 be amended to read as follows:

21 12-5-3.8. If a political party chooses to have a primary for selection of its delegates and  
22 alternates to the national convention, it shall certify the slates to the secretary of state by the ~~first~~  
23 ~~Tuesday in April~~ last Tuesday in November preceding the primary by five o'clock p.m. The slates  
24 certified shall be placed on the ballot by the secretary of state and the position of the slates on  
25 the primary ballot shall be chosen by lot by the secretary of state. The certification shall be

1 deemed to be filed if mailed by registered mail by five o'clock p.m. on the ~~first Tuesday in April~~  
2 last Tuesday in November.

3 Section 5. That § 12-5-3.14 be amended to read as follows:

4 12-5-3.14. Any candidate, committee, or group supporting a candidate in any presidential  
5 primary, shall, by the ~~first Tuesday in April~~ last Tuesday in November prior to the presidential  
6 primary election, notify the secretary of state of an intention to have the name of the candidate  
7 placed on the presidential primary election ballot or submit a slate of candidates or both.

8 Section 6. That § 12-6-4 be amended to read as follows:

9 12-6-4. Except as provided by § 12-5-4 and as may be otherwise provided in chapter 12-9,  
10 no candidate for any office to be filled, or nomination to be made, at the primary election, other  
11 than a presidential election, may have that person's name printed upon the official primary  
12 election ballot of that person's party, unless a petition has been filed on that person's behalf not  
13 prior to January twentieth, at eight a.m., and not later than the first Tuesday of April at five p.m.  
14 prior to the date of the primary election. If the petition is mailed by registered mail by the first  
15 Tuesday of April at five p.m. prior to the primary election, it shall be considered filed. A  
16 nominating petition for national convention delegates and alternates as provided in § 12-5-3.11  
17 shall be filed in accordance with the provisions of this section. However, a nominating petition  
18 for national convention delegates and alternates shall be filed on or after September tenth, at  
19 eight a.m., and not later than the last Tuesday of November, at five p.m., prior to the date of the  
20 presidential primary election. Nominating petitions for all party and public offices except  
21 legislative and judicial offices shall be filed in the office of the county auditor of the county in  
22 which the person is a candidate. Nominating petitions for legislative and judicial office whether  
23 elected in one or more counties, and all other party and public offices to be voted on in more  
24 than one county shall be filed in the Office of the Secretary of State.

25 Section 7. That chapter 12-6 be amended by adding thereto a NEW SECTION to read as



1 follows:

2       The state shall reimburse each county for any costs incurred, including any interest at the rate  
3 of one percent per year, as a result of any presidential primary election.

1    **BILL HISTORY**

2    1/18/00 First read in House and referred to committee assignment waived. H.J. 113

3    1/19/00 Referred to State Affairs.

4    1/24/00 Scheduled for Committee hearing on this date.

5    1/24/00 State Affairs Do Pass Amended, Failed, AYES 6, NAYS 7.

6    1/24/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 4. H.J. 219

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

744D0574

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1119** - 1/26/00

Introduced by: Representatives Diedtrich (Elmer), Apa, Duenwald, Eccarius, Fryslie, Juhnke, Koskan, Lucas, McNenny, Napoli, and Slaughter and Senators Moore, Albers, Flowers, and Madden

1 FOR AN ACT ENTITLED, An Act to distribute certain sales taxes collected at county-owned  
2 fairgrounds to counties for making improvements to fairgrounds.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-52-5 be amended to read as follows:

5 10-52-5. All moneys received and collected on behalf of a particular political subdivision by  
6 the ~~State~~ Department of Revenue, pursuant to this chapter, shall be credited to a special  
7 municipal non-ad valorem tax fund which is hereby established in the state treasury and after  
8 deducting the amount of refunds made, the amounts necessary to defray the cost of collecting  
9 the tax, and the administrative expenses incident thereto, shall be paid within thirty days after  
10 collection to the municipality entitled thereto.If the county adopts a resolution requesting certain  
11 municipal sales tax revenue, all sales tax levied pursuant to § 10-52-2 on admissions to events,  
12 commercial exhibits, concessions, campers, and rentals held on the premises of county-owned  
13 fairgrounds shall be collected, retained, and returned to the treasurer of the county in which  
14 collected for the exclusive purpose of making capital improvements to the county-owned  
15 buildings and facilities on the county fairgrounds.

1       Section 2. That § 7-27-14 be amended to read as follows:

2       7-27-14. All amounts collected as entrance money, admission fees, concessions, rentals, or  
3 otherwise, pertaining to ~~such a~~ county fair shall be paid into the general fund of the county, and  
4 all expenses, costs, premiums, and purses incurred and paid on account of such county fair shall  
5 be paid out of ~~such the~~ general fund. In addition, all amounts collected as sales tax on admissions  
6 to events, commercial exhibits, concessions, campers, and rentals held on the premises of the  
7 county-owned fairgrounds pursuant to § 10-52-5 shall be used exclusively for making capital  
8 improvements to the county-owned buildings and facilities on the county fairgrounds.

1    **BILL HISTORY**

2    1/18/00 First read in House and referred to Taxation. H.J. 115

3    1/25/00 Scheduled for Committee hearing on this date.

4    1/25/00 Taxation Do Pass Amended, Passed, AYES 7, NAYS 6. H.J. 219